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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 JAHMOL FACEN,)
13) Case No.: 4:18-cv-03196-DMR
Plaintiff,)
14) **STIPULATION FOR THE AWARD AND PAYMENT OF**
v.) **ATTORNEY FEES AND EXPENSES PURSUANT TO THE**
15) **EQUAL ACCESS TO JUSTICE ACT**
NANCY A.)
16 BERRYHILL,)
Acting Commissioner of)
17 Social Security,)
18)
Defendant.)

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21 IT IS HEREBY STIPULATED by and between the parties through their undersigned
22 counsel, subject to the approval of the Court, that Plaintiff Jahmol Facen be awarded attorney
23 fees and expenses in the amount of seven thousand dollars (\$7,000.00) under the Equal Access to
24 Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal
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1 services rendered on behalf of Plaintiff by counsel in connection with this civil action, in
2 accordance with 28 U.S.C. § 2412(d).

3 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
4 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's counsel, Nancy K. McCombs.

5 Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will
6 depend on whether the fees are subject to any offset allowed under the United States Department
7 of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will
8 determine whether they are subject to any offset. Fees shall be made payable to Plaintiff, but if
9 the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the
10 government shall cause the payment of fees, expenses and costs to be made directly to Nancy K.
11 McCombs, pursuant to the assignment Plaintiff executed. Any payments made shall be delivered
12 to attorney McCombs.

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14 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
15 attorney fees, and does not constitute an admission of liability on the part of Defendant under the
16 EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and
17 bar to, any and all claims that Plaintiff or his attorney may have relating to EAJA attorney fees in
18 connection with this action. This award is without prejudice to the rights of Plaintiff's counsel to
19 seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
20 provisions of the EAJA.

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22 Dated: April 25, 2019

Respectfully submitted,

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24 Nancy K. McCombs,

25 /s/ Nancy K. McCombs
NANCY K. McCOMBS

(*as authorized via email on April 25, 2019)
Attorney for Plaintiff

Dated: April 25, 2019

Respectfully submitted,

DAVID L. ANDERSON
United States Attorney

/s/Elizabeth Firer
ELIZABETH FIRER
Special Assistant United States Attorney
Attorneys for Defendant

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PROPOSED ORDER

Based upon the parties' Stipulation for the Award and Payment of Attorney Fees and Expenses Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), **IT IS ORDERED** that fees in the amount of \$7,000.00 as authorized by 28 U.S.C. § 2412, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED:



HON. DONNA M. RYU
UNITED STATES MAGISTRATE JUDGE

DATED: 4/26/2019